

Peru

Government Policies and Programs to Eliminate the Worst Forms of Child Labor

The Government of Peru has been a member of ILO-IPEC since 1996.¹⁹⁸¹ ILO-IPEC programs in which Peru is involved include a regional program to eliminate child labor in the small-scale, traditional mining sectors of Bolivia, Ecuador and Peru, and a regional program to eliminate child domestic labor in Brazil, Paraguay, Colombia and Peru.¹⁹⁸² In 2000, Peru implemented a child labor survey with technical assistance from ILO-IPEC's SIMPOC, and participation from the Ministry of Labor, the National Institute of Statistics, and the Ministry of Women's Advancement and Human Development (PROMUDEH).¹⁹⁸³

In 1997, Peru put in place its first National Plan of Action for Children and Adolescents to promote and ensure the complete protection of children's rights.¹⁹⁸⁴ In 1997, PROMUDEH created the National Steering Committee on the Eradication of Child and Adolescent Labor to carry out the strategies and goals stated in the National Plan of Action.¹⁹⁸⁵

The Ministry of Education is implementing programs that reinforce curricula, make lessons more pertinent to the lives of working children,¹⁹⁸⁶ promote good school performance, prevent the early insertion of children into the work force,¹⁹⁸⁷ and improve the quality and infrastructure of education throughout the country.¹⁹⁸⁸ The Ministry of Health's School Insurance program decreases school dropout numbers by providing medical coverage to children between the ages of 3 and 17 years in exchange for proof from teachers that students are continuously attending classes.¹⁹⁸⁹ The National Institute of Family Well-Being has a program that provides a variety of

¹⁹⁸¹ Patricia Crosby, coordinator of children, infant and adolescent policy (PROMUDEH), interview with USDOL official, November 15, 2000.

¹⁹⁸² USDOL and ILO-IPEC, "Prevention and Elimination of Child Domestic Labour in South America: Program to Prevent and Progressively Eliminate Child Labor in Small-Scale Traditional Gold Mining in South America" [documents on file].

¹⁹⁸³ Eliseo Cuadrao, Director of IPEC, South America Regional Office, interview with USDOL official, November 13, 2000.

¹⁹⁸⁴ OAS, Comisión Interamericana de Derechos Humanos, Capítulo VIII, "Derechos del Niño," at www.cidh.org/countryrep/Peru2000sp/capitulo8.htm.

¹⁹⁸⁵ U.S. Embassy-Lima, unclassified telegram no. 3383, June 1999.

¹⁹⁸⁶ Dra. Ballardo, Ministry of Education, Lima, Peru, interview with USDOL official, November 15, 2000.

¹⁹⁸⁷ Ibid.

¹⁹⁸⁸ Ministerio de Educación, *Programa de educación básica para todo*, at www.minedu.gob.pe/web/el_ministerio/el_ministerio/Administr/proyector/educ_basico.html, on 10/16/01. See also Ministerio de Educación. Plan Huascarán: Moderna Tecnología para Escuelas Rurales, 700 Colegios los Primeros Beneficiarios, 5 Mil Estarán Enlazados el 2004, at www.minedu.gob.pe/prensa_comunica/notas/octubre-2001/dir.php?obj%2713-10-2001_02.htm.

¹⁹⁸⁹ Dr. Cecilia Costa, director of People's Health, Ministry of Health, Lima, Peru, interview with USDOL official, November 15, 2000.

services to working youth, including school support, housing, reinsertion into the government school system, reinsertion into the family, and vocational training.¹⁹⁹⁰

Incidence and Nature of Child Labor

In 1999, the ILO estimated that 5.5 percent of children between the ages of 10 and 14 in Peru were working.¹⁹⁹¹ The majority of working children are active in the country's informal economy.¹⁹⁹² Children work in the agricultural sector, in fireworks factories, in stone quarries,¹⁹⁹³ and in mining sites.¹⁹⁹⁴ They shine shoes, load and unload produce in markets, collect garbage, carry heavy loads of bricks, and perform unpaid domestic work for their families.¹⁹⁹⁵ Children also engage in prostitution.¹⁹⁹⁶

The Constitution establishes free and compulsory education through secondary school.¹⁹⁹⁷ In 1997, the gross primary enrollment rate was 122.8 percent and the net primary enrollment rate

¹⁹⁹⁰ Instituto Nacional de Bienestar Familiar. INABIF, *Nuestros Servicios*, at www.inabif.gov.pe/servicio/servicio2.htm on 10/16/01. During the first 6 months of 2001, the program provided services to approximately 7,000 children and adolescents a month in 17 provinces. Instituto Nacional de Bienestar Familiar (INABIF), Oficina de Planeamiento y Desarrollo, Area de Estadística, *INABIF en Cifras I y II Trimestres 2001*, Boletín I y II Trimestres 2001, at <http://www.inabif.gov.pe/publica/encifras/uno/BOLETIN%20I%20TRIMESTRE-OK.pdf> Boletín I y II Trimestres 2001, and <http://www.inabif.gov.pe/publica/encifras/dos/boletin2.pdf>.

¹⁹⁹¹ Slightly fewer than half of these working children were boys (46,921), while girls accounted for just more than half (53,712). See ILO, *Yearbook of Labour Statistics* (Geneva, 2000), Table 1A.

¹⁹⁹² U.S. Embassy-Lima, unclassified telegram no. 3672, June 2000.

¹⁹⁹³ *Country Reports on Human Rights Practices for 2000—Peru* (Washington, D.C.: U.S. Department of State, 2001) [hereinafter *Country Reports 2000*], Section 6d, at <http://www.state.gov/g/drl/rls/hrrpt/2000/af/index.cfm?docid=849>.

¹⁹⁹⁴ Maria del Carmen Piazza, *Children Working in Small-Scale Traditional Gold Mining in Peru: National Baseline Study for the Project for Prevention and Progressive Elimination of Child Labor in Small-Scale Traditional Gold Mining in South America* (ILO-IPEC, March 2001), 80-83.

¹⁹⁹⁵ Jesus V. Astete and Isabel R. Baufume, *Trabajando en las calles de mi ciudad*, Asociación Qosqo Maki (Cuzco, Peru, April 1998), 28. See also AIDECA Peru, *Eliminating Child Labor in the Brickworks of Huachipa, Peru: Changing the Economic Equation* [document on file]. See also *Country Reports 2000* at Section 6d.

¹⁹⁹⁶ ECPAT International Database, "Child Prostitution," at http://www.ecpat.net/eng/Ecpat_inter/projects/monitoring/online_database/index.asp. See also *Country Reports 2000* at Section 5.

¹⁹⁹⁷ Constitution of the Republic of Peru, Article 17, at [http://confinder.richmond.edu/Peru\(eng\).html](http://confinder.richmond.edu/Peru(eng).html) on 11/23/01. In 2001, basic education consisted of 2 years at the pre-primary level, 6 years at the primary level, and 4 years at the secondary level. As part of the Education for All initiative in 1999, Peru began to experiment by uniting the secondary and primary levels to form a basic education requirement of 10 years. The reform will add an additional year of pre-primary to the basic education requirement until it reaches 13 years in 2002. Children will be required to start school at the age of 3. At the beginning of the 1990s,

was 91 percent.¹⁹⁹⁸ School attendance is lowest in rural areas, and girls attend at a lower rate than boys.¹⁹⁹⁹ Indigenous children and those from rural areas lack access to the education system.²⁰⁰⁰

Child Labor Laws and Enforcement

In 2001, new legislation was passed that modified the Child and Adolescent's Code of 2000 and raised the legal minimum age for employment from 12 to 14 years.²⁰⁰¹ According to the Code, the minimum age for the hazardous industrial, commercial or mining sectors is 15 years, while in the fishing sector, the legal minimum age is 16.²⁰⁰² Work that might harm a child's physical, mental and emotional health and development, including underground work or work that involves heavy lifting and carrying, or work that might serve as an obstacle to continued school attendance is prohibited for youth under the age of 18.²⁰⁰³ The Code prohibits extreme forms of child labor such as forced and bonded labor, economically exploitative labor, prostitution and trafficking.²⁰⁰⁴ Children between 12 and 14 years are prohibited from working more than four hours a day, or over to 24 hours a week, and adolescents between 15 and 17 years may not work more than six hour a days, or over 36 hours a week.²⁰⁰⁵ The Code further stipulates that all working

basic education was only required for a 6-year period. See UNESCO, *The Education for All 2000 Assessment: Country Reports-Peru*, at www2.unesco.org/wef/countryreports/peru/rapport_1.htm.

¹⁹⁹⁸ *World Development Indicators 2001* (Washington, D.C.: World Bank, 2001) [CD-ROM].

¹⁹⁹⁹ *Country Reports 2000* at Section 5.

²⁰⁰⁰ ICFTU, "Peru: Report on Core Labour Standards for the WTO: ICFTU Report for the WTO General Council Review of the Trade Policies of Peru" (Geneva, May 30-31, 2000), at [Http://www.icftu.org](http://www.icftu.org).

²⁰⁰¹ Ley que Modifica el Artículo 51 de la Ley No. 27337, Código de los Niños y Adolescentes, at <http://www.cajpe.org.pe/rj/bases/legisla/peru/27571.htm>. Children between the ages of 12 and 14 may obtain special permission from the Ministry of Labor to work legally up to 4 hours a day to help support their families. Ministerio de Trabajo y Promoción Social, Resolución Ministerial No 033-2000-TR.9, *Requisitos y formalidades para la contratación laboral de adolescente* [hereinafter *Requisitos y formalidades para la contratación laboral de adolescente*], at www.mtps.gov.pe/normas/033-2000-tr.htm. The aforementioned special permission from the Ministry of Labor certifies that the children are attending school regularly. See Ministerio de Trabajo y Promoción Social, *Síntesis Legal: 7.5. Beneficios de los Adolescentes*, at www.mtps.gob.pe/sintesis.htm. As of August 2001, 2,228 special permission requests had been approved for 2001. See also U.S. Embassy-Lima, unclassified telegram no. 5240, September 2001 [hereinafter unclassified telegram 5240].

²⁰⁰² *Requisitos y formalidades para la contratación laboral de adolescente: Edades mínimas para el trabajo*.

²⁰⁰³ *Requisitos y formalidades para la contratación laboral de adolescente: Trabajos prohibidos y facilidades y beneficios*.

²⁰⁰⁴ Comisión Andina de los Juristas, Red de Información Judicial Andina, Ley no. 27337, Ley que Aprueba el Nuevo Código de los Niños y Adolescentes [hereinafter Comisión Andina de los Juristas], *Libro primero: Derechos y libertades*, Capítulo I: Derechos Civiles, Artículo IV, at <http://www.cajpe.org.pe/rj/bases/legisla/peru/ley1.html>. Other prohibited work includes mining underground and carrying excessive loads or toxic substances.

²⁰⁰⁵ Ministerio de Trabajo y Promoción Social, *Síntesis Legal. 7.1.3, Jornadas especiales de trabajo adolescentes*, at www.mtps.gob.pe/sintesis.htm.

adolescents must obtain special certification from the Ministry of Labor, which is also the entity responsible for guaranteeing that they are attending school.²⁰⁰⁶ Working children must be paid at the same rate as adult workers.²⁰⁰⁷

Prostitution is legal in Peru, but laws prohibit individuals from profiting by prostituting others. Laws prohibiting kidnapping, the sexual abuse of minors, and illegal employment are enforced and can be used to sanction individuals who traffic children for exploitative labor.²⁰⁰⁸

The Ministry of Labor is responsible for enforcing labor laws. The Ministry has 150 labor inspectors, and inspections are primarily conducted in the formal sector.²⁰⁰⁹ The Directorate of Children and Adolescent Affairs, an office within the Ministry of Women's Advancement and Human Development (PROMUDEH), is charged with protecting the rights of children and adolescents.²⁰¹⁰ At the municipal level, the Municipal Child and Adolescent Defender Centers (DEMUNAs) work with local governments to supervise and apply punishments.²⁰¹¹

Peru has not ratified ILO Convention 138, but ratified ILO Convention 182 on January 10, 2002.²⁰¹²

²⁰⁰⁶ Ministerio de Trabajo y Promoción Social, *Síntesis Legal: 7.3.1, Formación laboral juvenil*, at www.mtps.gob.pe/sintesis.htm. Working adolescents are not required to register with the Ministry of Labor if they are performing domestic or unpaid family work; however, the head of the household for which they work must register them in the municipal labor records. See Comisión Andina de los Juristas at Capítulo IV, *Regimen para el adolescente trabajador*, Artículo 50.

²⁰⁰⁷ Comisión Andina de los Juristas at Artículo 59.

²⁰⁰⁸ *Country Reports 2000* at Section 6f.

²⁰⁰⁹ Unclassified telegram 5240.

²⁰¹⁰ *Ibid.*

²⁰¹¹ Comisión Andina de los Juristas at Capítulo V, *Contravenciones y Sanciones*, Artículo 70.

²⁰¹² "C182 Worst Forms of Child Labour Convention, 1999," at <http://ilolex.ilo.ch:1567/english/newratframeE.htm>.

NOTE: Hard copies of all Web citations are on file.